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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/570,238	02/28/2006	Wilhelmus Franciscus Fontijn	NL 031070	5219
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CHOL, EUNSOOK				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

10/570,238

Applicant(s)FONTIJN, WILHELMUS
FRANCISCUS**Examiner**

EUNSOOK CHOI

Art Unit

2467

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 February 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Information Disclosure Statement

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 1-5, 11, 12 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

- Claim 1 recites "record carrier". It appears that "record carrier" would reasonably interpreted by one of ordinary skill in the art as carrier wave, signal, per se. Applicant's specification mentions that the audio file can be stored on different media, however, the specification does not exclude carrier wave.
- Claim 5 recites "audio file" which is directed to non-statutory subject matter because it does not fall within a statutory category, a process, machine, manufacture, or a composition of matter.
- Regarding claim 11 and 12, while the claims recite a series of steps or acts to be performed, a statutory "process" under 35 U.S.C. 101 must (1) be tied to particular

machine, or (2) transform underlying subject matter (such as an article or material) to a different state or thing. See page 10 of In Re Bilski 88 USPQ2d 1385. The instant claims are neither positively tied to a particular machine that accomplishes the claimed method steps nor transform underlying subject matter, and therefore do not qualify as a statutory process. The method of claim 12 including steps of locating address data, recording said pointer data, and recording said auditory cues is broad enough that the claim could be completely performed mentally, verbally or without a machine nor is any transformation apparent.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3, 5-7, and 9-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Nishizawa (US Patent 5822284).

Regarding claim 10 and 12, Nishizawa teaches in **col.2 lines 47-49 the stored data of books, etc. and the retrieving table are written on the recording medium** and locating address data (**Fig. 3, Start Sector**) at each segment (**Fig. 3, Section**), recording said pointer data (**Fig. 3, Table Content – Chapter, Paragraph, Section**), and recording said auditory cues (**Fig. 3, Size of Introduction Part - announce message**).

Regarding claims 1 and 5, Nishizawa teaches in col.2 lines 47-49 **the stored data of books, etc. and the retrieving table are written on the recording medium** audio data being segmented into segments (**Fig. 3, Section**) to which an address information (**Fig. 3, Start Sector**) is assigned indicating a location of a segment, pointer data (3) comprising segment indexes (**Fig. 3, Table Content – Chapter, Paragraph, Section**) representing said segments of said audio data to each of which said address information (**Fig. 3, Start Sector**) and an auditory cue (**Fig. 3, Size of Introduction Part**) is assigned, and said auditory cues (4) being adapted to be sounded during browsing said segment indexes (**Fig. 1, input section 18, operating keys for designating basic operations, play, stop, fast forward, rewind, pause; keys for designating a retrieving layer of the multilayered pyramidal structure; retrieving direction keys for designating the retrieving directions; a retrieving key for retrieving and reading the introduction parts** and col. 2 lines 52-55, the groups of sentences, which are part of the stored data, can be retrieved by inputting the command for reading the introduction parts. Then the introduction parts of each group of sentences can be reproduced as the audio signals, so that a blind person can understand the relevance of each section of the stored data).

Regarding claim 6 and 11, Nishizawa teaches the claim limitations as applied to claim 1 above. Nishizawa teaches browsing said segment indexes (**Fig. 1, input section 18, operating keys for designating basic operations, play, stop, fast forward, rewind, pause; keys for designating a retrieving layer of the multilayered pyramidal structure; retrieving direction keys for designating the retrieving**

directions; a retrieving key for retrieving) sounding an auditory cue (**Fig. 3, Size of Introduction Part**) assigned to the segment index (**Fig. 3, Section**) being encountered during browsing (**Fig. 1 and col. 2 lines 52-55, the groups of sentences, which are part of the stored data, can be retrieved by inputting the command for reading the introduction parts. Then the introduction parts of each group of sentences can be reproduced as the audio signals,** so that a blind person can understand the relevance of each section of the stored data, selecting a segment index representing a segment selected to be read (**Fig. 1, input section 18 and col.5 lines 13-62 varying sizes of the announce messages are respectively assigned to each section, which is the lowest retrieving unit.** The user is capable of easily understanding the message and correctly retrieving the retrieving unit), and reading the selected segment (**Fig. 3, Section**) starting from the location indicated by the address information (**Fig. 3, Start Sector**) assigned to the segment index (**If signals indicating the position of the starting sector are inputted to the servo control unit, the servo control unit causes the optical pickup to read the data beginning at the starting sector).**

Regarding claim 2, Nishizawa teaches the limitations for claim 1 as applied above. Nishizawa teaches said address information is a time code (**Fig. 3, Start Sector**).

Regarding claim 3, Nishizawa teaches said segments are chapters of an audio book as applied to claim 1 above.

Regarding claim 7, Nishizawa teaches the limitations for claim 6, Nishizawa teaches a cache for storing the segment indexes (**col. 4 lines 33-36, A memory section 20 includes semiconductor devices, such as ROMs and RAMs. The memory section 20 stores data, such as the table of contents 14 and control programs for a CPU.**

Regarding claim 9, Nishizawa teaches the limitations for claim 6, Nishizawa teaches a fast forward button and reverse button being adapted to browse to a following or previous section index by pressing the corresponding button (**Fig. 1, input section 18, operating keys for designating basic operations, play, stop, fast forward, rewind, pause; keys for designating a retrieving layer of the multilayered pyramidal structure).**

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nishizawa (US Patent 5822284).

Regarding claim 4, Nishizawa teaches the limitations for claim 1 as applied above. Nishizawa teaches in col.2 lines 47-49 **the stored data of books, etc. and the retrieving table are written on the recording medium**, however, Nishizawa does not teach said pointer data and said auditory cues are stored at the end of said audio file. It

would have been obvious to one having ordinary skill in the art at the time the invention was made to have data and said auditory cues stored at the end of said audio file, since it has been held that rearranging parts of an invention involved only routine skill in the art. *In re Japikse*, 86 USPQ 70 (CCPA 1950).

8. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nishizawa (US Patent 5822284) as applied to claim 6 above, and in view of Robbin et al. (US Patent 7345671).

Regarding claim 8, Nishizawa does not teach a volume knob being adapted to browse the segment index with a circumference, which is in sections mapped to assigned section indexes. Robbin teaches in **Fig. 3** the rotational movement can be caused by a user acting to rotate a navigational wheel through a user input action, the object of the graphical user interface can be a list, menu or other object having a plurality of selectable items, e.g., volume adjustment. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to have a volume knob being adapted to browse the segment index with a circumference in order to facilitate greater ease of use of computing devices (col. 2 lines 33-35, Robbin).

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to EUNSOOK CHOI whose telephone number is (571)270-1822. The examiner can normally be reached on Monday-Friday 8:00-5:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pankaj Kumar can be reached on 571-272-3011. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/E. C./

Examiner, Art Unit 2467

/Hong Cho/

Primary Examiner, Art Unit 2467